

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FRANK J. VOTTA and
LYNN E. VOTTA,

Plaintiffs,

v.

AMERIPATH MORTGAGE CORP.,

Defendant.

C.A. No. 05-11133-WGY

JOINT STATEMENT FOR SCHEDULING CONFERENCE

Pursuant to the Notice of Scheduling Conference dated September 14, 2005, and in accordance with Local Rule 16.1(D), plaintiffs Frank J. Votta and Lynn E. Votta (“plaintiffs”) and defendant Ameripath Mortgage Corporation (“Ameripath”) submit the following Joint Statement in connection with the scheduling conference to be held on October 17, 2005.

I. Introduction

This is an action alleging violations of the Truth in Lending Act, 15 U.S.C. § 1601 et seq., the implementing Federal Reserve Board Regulation Z, 12 C.F.R. part 226, and the Massachusetts Consumer Credit Cost Disclosure Act, Mass. Gen. L. c. 140D, § 10. Plaintiffs seek rescission of their residential mortgage loan, and damages, due to Ameripath’s alleged failure to indicate the date of the loan transaction on the notice of right to cancel form provided to plaintiffs and for Ameripath’s alleged failure to provide two separate and complete copies of the notice of right to cancel form in connection with plaintiffs’ residential mortgage loan transaction. Ameripath has filed an Answer to plaintiffs’ Amended Complaint denying liability with respect to the claims asserted in the Amended Complaint. Ameripath has also filed a

counterclaim against plaintiffs seeking a declaration that the plaintiffs did not, and are not entitled to, rescind their mortgage loan with Ameripath and that alternatively, any such rescission should require a mutual exchange of monies and property by the parties through escrow.

II. Proposed Agenda for Scheduling Conference

The parties propose the following scheduling deadlines set forth in Section III below be adopted by the Court and so ordered.

III. Parties' Proposed Pre-Trial Schedule

A. Automatic Disclosures

The parties will serve automatic required disclosures on or before October 21, 2005.

B. Discovery Limitations and Proposed Discovery Schedule

The parties agree to the discovery limitations set forth in Local Rule 26.1(C) and propose the following deadlines for discovery and motions:

- Initial Disclosures: Initial disclosures, made pursuant to Fed. R. Civ. P. 26(a)(1) and Local Rule 26.2(A), will be completed on or before October 21, 2005.
- Amendment of pleadings: November 1, 2005.
- Discovery Period: The parties shall propound all written discovery on or before March 1, 2006. The parties will complete fact depositions on or before June 1, 2006.
- Experts: (a) Plaintiff shall designate experts and serve expert reports on or before June 15, 2006;
(b) Defendant shall designate experts and serve expert reports on or before August 1, 2006; and
(c) the parties will complete all expert depositions on or before August 30, 2006.
- Dispositive Motions: All dispositive motions shall be filed and served on or before October 2, 2006. All oppositions and replies shall be filed and served in accordance with Local Rule 7.1
- Final Pre-Trial Conference: On or after January 20, 2007.

- Trial: On or after February 24, 2007.

IV. Trial By Magistrate

The parties are not prepared at this time to consent to trial by a Magistrate Judge.

V. Alternate Dispute Resolution

The parties do not believe that Alternate Dispute Resolution is appropriate at this time.

VI. Certifications

The parties will file their Certificates of Compliance with Local Rule 16.1 prior to or at the time of the scheduling conference.

Respectfully submitted,

FRANK J. VOTTA and
LYNN E. VOTTA,

By their attorney,

/s/ Christopher M. Lefebvre (with permission)

Christopher M. Lefebvre (BBO #629056)
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AMERIPATH MORTGAGE CORPORATION,

By its attorneys,

/s/ Ryan M. Tosi

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Dated: October 6, 2005

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2005, I served a true copy of the foregoing document by electronic filing upon the following:

Christopher M. Lefebvre
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/s/ Ryan M. Tosi

Ryan M. Tosi